



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL - 1 2005

Honorable Rick Melmer  
Secretary of Education  
South Dakota Department of Education  
700 Governors Drive  
Pierre, South Dakota 57501-2291

Dear Secretary Melmer:

This is to inform you that we have conditionally approved South Dakota's Application, including policies, procedures, methods, descriptions, assurances and certifications for Federal Fiscal Year (FFY) 2005 under Part C of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the Part C Application for FFY 2005, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted on May 2, 2005 and amended on May 12, 2005 by the South Dakota Department of Education to the U.S. Department of Education, Office of Special Education Programs (OSEP), in which it assures that it will:

1. Operate consistent with the Part C requirements of PL 108-446 and its applicable regulations;
2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2005 grant period; and
3. Make such changes to, and submit for OSEP's approval, existing policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of Part C of the IDEA, as amended, as soon as possible, and not later than the earlier of the date indicated by the State in Section II of its application or July 1, 2006. Section II of the State's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the State needs to amend policies, procedures, methods and descriptions and the timelines by which the State will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies, procedures, methods and descriptions that are not yet in compliance with the requirements of Part C of the IDEA, as amended; and
4. The State's June 9, 2005 assurance that it shall:
  - a. Make all changes necessary to its definition of assistive technology device in the State's Part C FFY 2005 application including its April 2005 interagency agreement and any Part C policies and procedures as specified in OSEP's June 2, 2005 Memorandum to the State to comply with the Part C requirements in IDEA Section 602(1)(B) (definition of assistive technology) and submit the revised application to OSEP not later than June 30, 2006;
  - b. Ensure compliance in the interim with the requirements of IDEA Section 602(1)(B), including sending a memorandum to all agencies and providers that are part of the State's Part C early intervention system to inform them of the change that impacts on the provision of early intervention services in the State with respect to the above-identified Part C requirement; and

- c. Ensure that the statewide system of early intervention required by Part C of the IDEA and its implementing regulations at 34 CFR Part 303 will be in effect throughout the FFY 2005 grant period.

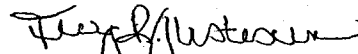
Please note that as part of your State's Application for FFY 2005, your State has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2005 grant period. Any changes made by the State, after OSEP approval, to the State's Part C application (including policies and procedures), must meet the public participation requirements of IDEA, including those in 20 U.S.C. 1232d(b)(7).

The enclosed grant award for FFY 2005 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application and appendices, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Therefore, by accepting this grant a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,



Troy R. Justesen  
Acting Director  
Office of Special Education  
Programs

Enclosure

cc: Sherrie Fines  
Part C Coordinator



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### South Dakota Assurance Language

The South Dakota Department of Education hereby assures that it shall:

- (1) Make all changes necessary to its definition of assistive technology device in the State's Part C FFY 2005 application including its April 2005 interagency agreement and any Part C policies and procedures as specified in OSEP's June 2, 2005 Memorandum to the State to comply with the Part C requirements in IDEA Section 602(1)(B) (definition of assistive technology) and submit the revised application to OSEP not later than June 30, 2006;
- (2) Ensure compliance in the interim with the requirements of IDEA Section 602(1)(B), including sending a memorandum to all agencies and providers that are part of the State's Part C early intervention system to inform them of the change that impacts on the provision of early intervention services in the State with respect to the above-identified Part C requirement; and
- (3) Ensure that the statewide system of early intervention required by Part C of the IDEA and its implementing regulations at 34 CFR Part 303 will be in effect throughout the FFY 2005 grant period.

  
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Dr. Rick Melmer  
Cabinet Secretary  
South Dakota Department of Education

  
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Date